

H2492 An Act relative to collective bargaining and management rights of public employees  
<http://www.malegislature.gov/Bills/187/House/H02492>

Sponsors: Rep. Daniel Winslow (R), Norfolk, Rep. Elizabeth Poirier (R), N. Attleboro, (others)

Status: 2/25/2011 referred to Joint Committee on Public Service

Section 1. Chapter 150E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following new section: -

Section 16. Notwithstanding any general or special law to the contrary, a public employer shall have no authority to bargain collectively and shall have no authority to enter into collective bargaining agreements with respect to matters of inherent management right which shall include the right:

(i) to direct, appoint, and employ officers, agents and employees and to determine the standards therefor;

(ii) to discharge or terminate employees subject to the provisions of clauses (a) and (b). (a) No such action to discharge or terminate shall be sustained if, in a proceeding invoked in accordance with the provisions of clause (b), the employee shall establish by a preponderance of the evidence that it was based upon race, sex, color, religion, creed, sexual orientation, age, national origin, handicapping condition, marital status, or political affiliation, or activities or union activities or union organizing of the employees; a reprisal against the employee for disclosure of information by an employee which the employee reasonably believes evidences a violation of any law, rule or regulation or mismanagement, a gross waste of funds, or abuse of authority; a reprisal against any employee for the refusal of any person to engage in political activity. (b) The parties may include in any written agreement a grievance procedure culminating in final and binding arbitration which may be invoked in the event any employee is aggrieved by any action taken to so discharge or terminate employees;

(iii) to plan and determine the levels of service provided by the employer;

(iv) to direct, supervise, control, and evaluate the departments, units, or programs; to classify the various positions and ascribe duties and standards of productivity therefor;

(v) to develop and determine levels of staffing and training; provided, however, that to the extent that levels of staffing and training have an impact on the safety of employees the determination, development and implementation of such levels of staffing and training shall not constitute a matter of inherent management right and the public employer shall have the authority to bargain collectively on such subjects with labor organizations representing employees; and provided further, that such public employer and labor organizations may include in any written agreement a grievance procedure culminating in final and binding arbitration before a neutral arbitrator which may be invoked in the event that an employee to whom such agreement applies is aggrieved by actions taken by management respect with to the development, determination or implementation of levels of staffing and training which have an impact on the safety of employees;

(vi) to determine whether goods or services should be made, leased, contracted for, or purchased on either

a temporary or permanent basis;

(vii) to assign and apportion overtime;

(viii) to hire part-time employees;

(ix) to require random urine testing to assure that employees are free from alcohol and illicit drugs during working hours; provided that all members of management shall be subject to the same provisions.

The public employer is hereby prohibited from bargaining collectively or entering into any agreement to make pension benefit payments to its employees that are determined in a manner that includes the amount of overtime earnings of said employees.

The public employer is hereby prohibited from bargaining collectively or entering into a contract which provides for automatic cost-of-living salary adjustments which are based on changes in the consumer price index or other similar adjustments unless specifically authorized by law.